

REMARKS/ARGUMENTS

Claims 1-26 are pending in the application.

Claims 7-26 have been withdrawn from consideration.

Claims 1-6 stand rejected.

Claims 1-6 have been amended.

Claims 27-33 have been added and are accordingly new.

The election/restriction requirement of December 6, 2002, has been made FINAL by the Examiner; however Applicant respectfully requests reconsideration in view of the fact that Applicant believes that there is unity of invention on the use of PCAs' in plant material.

THE OBJECTIONS TO IMPROPER LANGUAGE AND INFORMALITIES

1. The abstract was objected to as not meeting the proper language format. Applicants have replaced the abstract paragraph with a new paragraph of proper language format. Examiner is thanked for the guidance and helpful remarks given regarding construction of abstracts.

2. The disclosure was objected to under 35 USC § 119(e) regarding lack of appropriate reference in the first paragraph to parent disclosures. Applicants has now added bby amendment the appropriate paragraph to the specification and now claims in fact (CIP status), that this application is continuation-in-part of U.S. serial number 09/017,412, now U.S. 6,270,694; and that this application also claims the benefit of U. S.

provisional application No. 60/203,937 filed May 12, 2000. Accordingly, the above objection is now rendered moot.

Regarding the C-I-P status of this application, applicant respectfully calls the Examiner's attention to M.P.E.P. 201.08 which states:

"An alleged continuation-in-part application should be permitted to claim the benefit of the filing date of an earlier non-provisional application if the alleged continuation-in-part application complies with the following format requirements of 35 USC 120:

(A) The first application and the alleged continuation-in-part application were filed with at least one common inventor;

(B) The alleged continuation-in-part was 'filed before the patenting or abandonment of or the termination of proceedings on the first application or an application similarly entitled to the benefit of the filing date of the first application; and

(C) The alleged continuation-in-part 'contains or is amended to contain a specific reference to the earlier filed application'. "

All of the above three requirements have been met.

THE REJECTIONS UNDER 35 U.S.C. § 112 FIRST AND SECOND PARAGRAPHS

It is believed that by the filing of the above claim and specification amendments that all the rejections and objections under 35 USC § 112 first and second paragraphs have been rendered moot. The amendments to the claims have been drawn to correct for the second paragraph rejections for indefiniteness and incompleteness.

Additionally, the Examiner asserts on page 6 that "the specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention commensurate in scope with these claims." This assertion is respectfully traversed. Given that this application now claims C-I-P status from US serial number 09/017,412 (which matured into US Patent No. 6,270,964), it is respectfully submitted that there is sufficient guidance in the earlier application as to the selection of a reporter molecule as well as sufficient Examples of the types of reporters that are desirable. Furthermore, the patent statute is also clear regarding enablement. As long as there is sufficient guidance from the specification, there is really no requirement for an example. Nonetheless, Applicants have provided Examples to illustrate the invention.

THE REJECTION UNDER 35 U.S.C. 103

Claims 1-6 stand rejected under 35 USC § 103 as being unpatentable over Gutterson et al. in view of Pelletier et al. (1998), Remy et al. (1999), and Chang et al.(1993). The CIP status of this application removes the Pelletier et al. and Remy et al.

references in view of their publication date and the filing date and foreign priority of applicants parent case. The parent '964 filing date is February 2, 1998, with a foreign application priority date of January 31, 1997.

It should also be noted that the Pelletier et al. and Remy et al. papers, which do not suggest the use of the PCA techniques in plant material, are products of the Applicants' research group published after the parent '964 filing date. Hence they can not be combined with other art to form a 35 USC 103 rejection.

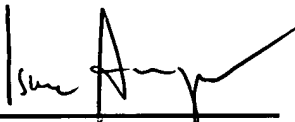
Further, the Examiner has pointed out on page 11 of the outstanding office action that "Gutterson et al. do not teach methods comprising transforming plant material with constructs coding for fusion products between protein-protein interacting domains and molecules whose fragments can exhibit a detectable activity when associated... or methods in which an inducer is added to facilitate the interaction of protein-protein interaction domains." Hence Gutterson et al. are describing methods that are not related to the Applicants' methodology. In addition, Gutterson et al. are focused on killing the transformed host rather than in using the host to produce detectable reconstituted enzymatic activity in viable hosts. Without support from the Applicants' own publications, now moot due to the CIP status, there is no obvious similarity or connection between the methods of Gutterson et al. and the methods of the Applicants.

Chang et al. use no reconstitution or PCA techniques. The mere demonstration of DHFR expression in plant systems can not therefore make obvious nor anticipate a method using reconstitution or PCA techniques to transform plant material into a heterologous enzyme (such as DHFR) producer.

As the Examiner has correctly pointed out, the PCA techniques are disclosed only in publications of the Applicants' research group. Since these publications can not be used against the Applicants given the CIP status of the present application, there are therefor no other publications that disclose the PCA techniques and meet the time of filing or publishing date criteria that can be used to reject the claims of the present application.

In view of the above amendments and remarks, it is respectfully submitted that the claims are now in condition for allowance. Reconsideration and withdrawal of the rejections and objections are requested. The Examiner is invited to contact the undersigned at 703-418-2777 if he feels that further discussion may facilitate the resolution of any outstanding issues. An early indication of a Notice of Allowance is earnestly solicited.

Respectfully submitted,



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